

SECOND REGULAR SESSION

HOUSE BILL NO. 2691

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HAAHR.

6756H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 67.410, RSMo, and to enact in lieu thereof one new section relating to ordinances for the abatement of public nuisances.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 67.410, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.410, to read as follows:

67.410. 1. Except as provided in subsection 3 of this section, any ordinance enacted pursuant to section 67.400 shall:

(1) Set forth those conditions detrimental to the health, safety or welfare of the residents of the city, town, village, or county the existence of which constitutes a nuisance;

(2) Provide for duties of inspectors with regard to such buildings or structures and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such buildings or structures;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the property is to be vacated, if such be the case, reconditioned or removed, listing a reasonable time for commencement; and may provide that such notice be served either by personal service, or [by certified] mail[,] **so long as a signature from the recipient is required for delivery and a return receipt is requested**, but if service cannot be had by either of these modes of service, then service may be had by [publication] **posting**. The ordinances shall further provide that the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the building or structure as shown by the land records of the recorder of deeds of the county wherein the land is located shall be made parties;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (4) Provide that [upon failure to commence work of reconditioning or demolition within
18 the time specified or upon failure to proceed continuously with the work without unnecessary
19 delay], **except in emergencies**, the building commissioner or designated officer or officers shall
20 call and have a full and adequate hearing upon the matter, giving the affected parties at least ten
21 days' written notice of the hearing. Any party may be represented by counsel, and all parties shall
22 have an opportunity to be heard. After the hearings, if the evidence supports a finding that the
23 building or structure is a nuisance or detrimental to the health, safety, or welfare of the residents
24 of the city, town, village, or county, the building commissioner or designated officer or officers
25 shall issue an order making specific findings of fact, based upon competent and substantial
26 evidence, which shows the building or structure to be a nuisance and detrimental to the health,
27 safety, or welfare of the residents of the city, town, village, or county and ordering the building
28 or structure to be demolished and removed, or repaired. If the evidence does not support a
29 finding that the building or structure is a nuisance or detrimental to the health, safety, or welfare
30 of the residents of the city, town, village, or county, no order shall be issued;

31 (5) Provide that if the building commissioner or other designated officer or officers issue
32 an order whereby the building or structure is demolished, secured, or repaired, or the property
33 is cleaned up, the cost of performance shall be certified [to the city clerk or officer in charge of
34 finance] **by such commissioner or officer**, who shall cause **the certified cost to be included**
35 **in a special tax bill or assessment [therefor against the property to be prepared] , or added to the**
36 **annual real estate tax bill for the property, at the collecting official's option**, and collected
37 by the city collector or other official collecting taxes **in the same manner and procedure for**
38 **collecting real estate taxes**, unless the building or structure is demolished, secured or repaired
39 by a contractor pursuant to an order issued by the city, town, village, or county and such
40 contractor files a mechanic's lien against the property where the dangerous building is located.
41 The contractor may enforce this lien as provided in sections 429.010 to 429.360. Except as
42 provided in subsection 3 of this section, at the request of the taxpayer the tax bill may be paid
43 in installments over a period of not more than ten years. The tax bill from date of its issuance
44 shall be deemed a personal debt against the property owner and shall also be a lien on the
45 property until paid. **If the certified cost is not paid, the tax bill shall be considered**
46 **delinquent, and the collection of the delinquent bill shall be governed by the laws**
47 **governing delinquent and back taxes**. A city not within a county or a city with a population
48 of at least four hundred thousand located in more than one county, notwithstanding any charter
49 provision to the contrary, may, by ordinance, provide that upon determination by the city that a
50 public benefit will be gained the city may discharge the special tax bill, including the costs of tax
51 collection, accrued interest and attorneys fees, if any.

52 2. If there are proceeds of any insurance policy based upon a covered claim payment
53 made for damage or loss to a building or other structure caused by or arising out of any fire,
54 explosion, or other casualty loss, the ordinance may establish a procedure for the payment of up
55 to twenty-five percent of the insurance proceeds, as set forth in this subsection. The order or
56 ordinance shall apply only to a covered claim payment which is in excess of fifty percent of the
57 face value of the policy covering a building or other structure:

58 (1) The insurer shall withhold from the covered claim payment up to twenty-five percent
59 of the covered claim payment, and shall pay such moneys to the city to deposit into an
60 interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority
61 over any obligation under the order or ordinance;

62 (2) The city or county shall release the proceeds and any interest which has accrued on
63 such proceeds received under subdivision (1) of this subsection to the insured or as the terms of
64 the policy and endorsements thereto provide within thirty days after receipt of such insurance
65 moneys, unless the city or county has instituted legal proceedings under the provisions of
66 subdivision (5) of subsection 1 of this section. If the city or county has proceeded under the
67 provisions of subdivision (5) of subsection 1 of this section, all moneys in excess of that
68 necessary to comply with the provisions of subdivision (5) of subsection 1 of this section for the
69 removal, securing, repair and cleanup of the building or structure, and the lot on which it is
70 located, less salvage value, shall be paid to the insured;

71 (3) If there are no proceeds of any insurance policy as set forth in this subsection, at the
72 request of the taxpayer, the tax bill may be paid in installments over a period of not more than
73 ten years. The tax bill from date of its issuance shall be a lien on the property until paid;

74 (4) This subsection shall apply to fire, explosion, or other casualty loss claims arising
75 on all buildings and structures;

76 (5) This subsection does not make the city or county a party to any insurance contract,
77 and the insurer is not liable to any party for any amount in excess of the proceeds otherwise
78 payable under its insurance policy.

79 3. The governing body of any city not within a county and the governing body of any city
80 with a population of three hundred fifty thousand or more inhabitants which is located in more
81 than one county may enact their own ordinances pursuant to section 67.400 and are exempt from
82 subsections 1 and 2 of this section.

83 4. Notwithstanding the provisions of section 82.300, any city may prescribe and enforce
84 and collect fines and penalties for a breach of any ordinance enacted pursuant to section 67.400
85 or this section and to punish the violation of such ordinance by a fine or imprisonment, or by
86 both fine and imprisonment. Such fine may not exceed one thousand dollars, unless the owner

87 of the property is not also a resident of the property, then such fine may not exceed two thousand
88 dollars.

89 5. The ordinance may also provide that a city not within a county or a city with a
90 population of at least three hundred fifty thousand located in more than one county may seek to
91 recover the cost of demolition prior to the occurrence of demolition, as described in this
92 subsection. The ordinance may provide that if the building commissioner or other designated
93 officer or officers issue an order whereby the building or structure is ordered to be demolished,
94 secured or repaired, and the owner has been given an opportunity for a hearing to contest such
95 order, then the building commissioner or other designated officer or officers may solicit no less
96 than two independent bids for such demolition work. The amount of the lowest bid, including
97 offset for salvage value, if any, plus reasonable anticipated costs of collection, including
98 attorney's fees, shall be certified to the city clerk or officer in charge of finance, who shall cause
99 a special tax bill to be issued against the property owner to be prepared and collected by the city
100 collector or other official collecting taxes. The municipal clerk or other officer in charge of
101 finance shall discharge the special tax bill upon documentation by the property owner of the
102 completion of the ordered repair or demolition work. Upon determination by the municipal clerk
103 or other officer in charge of finance that a public benefit is secured prior to payment of the
104 special tax bill, the municipal clerk or other officer in charge of finance may discharge the
105 special tax bill upon the transfer of the property. The payment of the special tax bill shall be held
106 in an interest-bearing account. Upon full payment of the special tax bill, the building
107 commissioner or other designated officer or officers shall, within one hundred twenty days
108 thereafter, cause the ordered work to be completed, and certify the actual cost thereof, including
109 the cost of tax bill collection and attorney's fees, to the city clerk or other officer in charge of
110 finance who shall, if the actual cost differs from the paid amount by greater than two percent of
111 the paid amount, refund the excess payment, if any, to the payor, or if the actual amount is
112 greater, cause a special tax bill or assessment for the difference against the property to be
113 prepared and collected by the city collector or other official collecting taxes. If the building
114 commissioner or other designated officer or officers shall not, within one hundred twenty days
115 after full payment, cause the ordered work to be completed, then the full amount of the payment,
116 plus interest, shall be repaid to the payor. Except as provided in subsection 2 of this section, at
117 the request of the taxpayer the tax bill for the difference may be paid in installments over a
118 period of not more than ten years. The tax bill for the difference from the date of its issuance
119 shall be deemed a personal debt against the property owner and shall also be a lien on the
120 property until paid.

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